IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS LUFKIN DIVISION

NETFLIX, INC.,

Plaintiff,

v.

LUCAS BABIN,

Defendant.

CIVIL ACTION NO. 9:22-cv-00031

JOINTLY STIPULATED ABATEMENT CONCERNING THE PENDING STATE CASES

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As noted on the record on March 4, 2022, during the hearing on Netflix, Inc.'s Motion for Temporary Restraining Order (Doc. 7), the parties have reached and submit the following stipulation.

- 1. In light of the parties' stipulation, Netflix agrees that, prior to the hearing presently set for June 14, 2022 ("the Hearing"), Netflix will *not* pursue a TRO or seek any additional forms of injunctive relief while this action is pending, provided the state court cases *State v. Netflix, Inc.*, Cause Nos. 13,968, 13,969, 13,970, and 13,971 ("the pending state cases") remain abated consistent with the agreements reached in this stipulation.
- 2. The parties agree and stipulate that they will not take—and will not require or cause any other person to take—any actions related to the pending state cases while this action is pending. The parties agree, for example, that Netflix is not required to appear at any arraignment, or file any waivers of arraignment, to enter a formal plea of NOT GUILTY by March 28, 2022, as presently required. Netflix agrees that it will not file any motions to quash or to dismiss concerning any defects in the indictments, to serve requests for discovery or mandatory disclosures, or pursue other actions to defend against the pending state cases during the pendency of this action. Babin agrees not to serve any discovery requests on Netflix, serve witness lists or

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pursue any potential experts, or to set anything for hearing or for status conferences or otherwise pursue the pending state cases while this action is pending. If the state court presiding over the pending state cases sets any of the cases for hearing or status conference while this action is pending, Babin agrees to promptly inform Netflix of the same by email and through its counsel of record so that the parties may jointly notify the state court of their stipulation and jointly seek to postpone any such hearing or status conference.

- 3. Babin agrees and stipulates that, while this action is pending, he will not seek to reopen Cause No. 13,731, or pursue or cause to be pursued any new charges under Texas Penal Code § 43.262 relating to the film *Cuties*, such as convening a grand jury or participating in any other grand jury proceedings arising out of or relating to the film *Cuties*.
- 4. The parties agree and stipulate that before seeking to enforce the terms of this stipulation, they will meet and confer in an effort to resolve the issue before seeking any court intervention consistent with Local Rule CV-7(h).
- 5. The parties further agree that nothing in this stipulation prevents either side from pursuing their claims or defenses in this action, or otherwise preparing for the Hearing in this matter, such as the filing of additional or amended pleadings, filing motions, seeking discovery (if any), etc.
- 6. Netflix and Babin agree that this stipulation extends not only to the parties themselves but also to each party's officers, agents, servants, employees, attorneys, and any other persons who are in active concert or participation with any party. Netflix and Babin both represent and agree that all such parties have been apprised of this stipulation and the obligations it imposes to ensure the parties' agreements are met while the action is pending.

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Agreed as to form and substance:

On Behalf of Netflix, Inc.

On behalf of Lucas Babin

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